

Criminal Justice 101 (Part II) Grand Jury, Trial, & Sentencing

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The Charging Decision

Misdemeanors
v.
Felonies

Grand Jury

- Qualifications
 - Citizen of State and County
 - Sound Mind/Good Moral Character
 - Read and Write
 - No Convictions or Pending Indictments-Theft / Felony
 - No Third Degree Consanguinity to Other Grand Jurors
 - Not Served within One Year
 - Not a Complainant or Victim on Cases Considered
- Formation
 - With or Without Commissioners
- Terms of Court

Grand Jury - Proceedings

- Secret
- Aided by Attorney for State
- Subpoena Power
 - Documents and Things
 - Persons (Witnesses)
- Who May Attend
- Deliberations
 - Only Grand Jurors
 - Nine votes for a Quorum & True Bill

Indictment

- Statutes of Limitations
- Name of Defendant / Date of Offense
- Description of Offense – Plain & Intelligible
- Jurisdiction & Venue
- Counts v. Paragraphs

Information

- Similar to an Indictment
- Supported by a Complaint
- Signed by Prosecutor

Pre-Trial

- Arraignment
- Appointment of Counsel
- Motions for Bond Reduction
- Motions to Change Venue
- Motions for Continuance
- Motions for Discovery
- Motions to Suppress Evidence
- Motions to Amend the Indictment
- Motions to Dismiss (Speedy Trial/Entrapment/Other...)
- Habeas Applications

The Trial – Preliminary Matters

- The Courtroom
- Compulsory Process – Subpoenas
- Announcements – Ready/Not Ready
- Preliminary Hearings:
 - Scientific Evidence
 - Competency of Witnesses
 - Competency of Defendant
- Motions In Limine

The Trial – Preliminary Matters

- Jury Waiver / Bench Trial
- Plea Bargains
- Jury Selection – Voir Dire
 - Panel is Selected Randomly - DL and Voter Rolls
 - Qualifications (Similar to Grand Juror Qs)
 - General Voir Dire / Individual Voir Dire
 - Strikes for Cause
 - Peremptory Strikes
- Capital Murder Death Penalty Jury Selection

The Trial

- Bifurcated
 - Guilt Phase
 - Punishment Phase
- Unitary
 - Pleas of Guilty or Nolo Contendere

The Trial – Guilt Phase

- Swearing the Jury
- Pleading to the Indictment
- Opening Statements
- State's Case-In-Chief
- Rebuttal
- Defense Case-In-Chief
- Rebuttal
- The Jury Charge – Determination of Guilt
- Closing Arguments
- Deliberations
- The Verdict

The Trial – Punishment Phase

- Judge Sentencing v. Jury Sentencing
- Opening Statements
- State's Case-In-Chief
- Rebuttal
- Defense Case-In-Chief
- Rebuttal
- The Jury Charge – Determination of Punishment
- Closing Arguments
- Deliberations
- The Verdict

Evidence

- Judicial Notice
- Relevance
 - Any Tendency to Make the Existence of any Fact of Consequence More or Less Probable
 - Prejudice v. Probative Value
- Privileges
- Witness Competence / Impeachment
- Experts and Lay Opinion Testimony
- Hearsay
- Authentication

Prosecutor Ethics

- Not to Convict, But to See that Justice is Done
- *Brady v. Maryland*
 - Exculpatory
 - Impeachment
 - All Law Enforcement Included
 - No Request Necessary
 - Duty is Continuing

Other Miscellaneous Issues

- Shackling
- Jail Clothing
- Voluntary Absence from Proceedings
- “The Rule”
- Mistrials
- Public Trials – Recent Cases
- Cameras in the Courtroom
- Jury Conduct/Misconduct
- Non-Local Victim/Witness Accommodations

Sentencing Considerations

- Classifications of Offenses
- Enhancements
 - Offense Enhancements
 - Punishment Enhancements
- Deferred Adjudication
- Community Supervision
- “Shock”
- Fines
- Confinement
- Death
- Restitution
- Enhancements
- Reporting Requirements – Sex Offenders

Sentencing

- Defendant Must Be Present
- Pronounced in Open Court
- Trend Toward Allowing Modification w/in 30days
- Victim Impact Statements
- Victim Allocution TCCP Sec. 42.03
 - Post Sentence

Final Matters

- Judgment
 - Written Declaration showing Conviction
 - Contains the Term of Sentence
 - Starts Appellate Timetables
- Motions for New Trial
- Notice of Appeal
- Execution of Sentence
 - Good Conduct Time
 - Parole
 - Cruel and Unusual Punishment / Eighth Amendment
 - LWOP
 - Execution / Execution Competence
